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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

In re

Conifer Care Inc.  
dba Abilene Convalescent  
dba Bethany Place  
dba Denver Manor  
dba Pioneer Rehab and Care Center  
dba Cedar Falls  
dba Theron Grainger  
Debtor

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CASE NO. 06-50224RLJ-11  
Chapter 11

**SECOND REPORT OF PATIENT CARE OMBUDSMAN**

I, Patty Ducayet, LMSW, State Long-Term Care Ombudsman and the duly appointed Patient Care Ombudsman in this case, file this second Patient Care Ombudsman report pursuant to 11 U.S.C. § 333(b)(2).

**Background**

Conifer Care, Inc. is a for-profit nursing home chain that consists of six freestanding facilities with a total licensed capacity of 528 beds. The facilities are located in the north,

west, central and eastern areas of Texas. The Corporate headquarters is located in Lubbock, Texas.

### Sixty Day Update

Over the last sixty (60) days, three employee accounts of paychecks bouncing were reported in the Cedar Falls and Denver Manor facilities, although the individuals' checks were subsequently cashed. In addition, Abilene Convalescent Care reports difficulty obtaining funds from the corporate office, specifically needed for repairs to walls, plumbing supplies and furniture in need of replacement in resident rooms. These supplies are needed in response to concerns noted by Regulatory Services during inspection. Finally, medical directors at Abilene Convalescent Center and Theron Grainger report that they have not been paid in six and seven months, respectively. In the case of Theron Grainger, \$4,800.00 is owed. These debts to medical directors create a potential care risk to all residents in these facilities, however, both medical directors report that they intend to continue working for the facility and residents.

Administrative staff changes are significant in two facilities. Pioneer Care Center in Irving replaced seven administrative positions including Administrator and Director of Nurses (DON), and Theron Granger in Hughes Springs replaced their Administrator position.

The following sub-sections provide information specific to each of the Conifer facilities.

### *Abilene Convalescent Center*

#### Facility

The facility census dropped from sixty-five (65) to fifty-nine (59) residents, which is common during the winter months. There were no changes in administrative staff.

#### Staffing Levels

An additional Licensed Vocational Nurse (LVN) was recently hired. While a total of nine Certified Nurse Aids (CNAs) are needed for all shifts, CNA shortages are also common in neighboring nursing homes. One significant change in staffing is with therapy service delivery, where therapists are now providing care “as needed,” rather than regularly scheduled days of service.

#### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The facility occupancy rate dropped from 57% to 51% in the last sixty (60) days. The average state occupancy rate is 73%.

#### Quality Reporting System (QRS) Rating

The QRS score is thirty-eight (38) out of a maximum possible score of one hundred (100). The statewide average for facilities that accept Medicaid and Medicare is fifty-nine (59).

#### Care Issues

During the past sixty (60) days, the Regulatory Services Section of the Department of Aging and Disability Services (DADS) completed an annual inspection survey of the building. Of note is a violation regarding the facility disaster plan. The facility has not been cleared of their deficiencies; however, no monetary penalties currently exist.

### Visitation and Resident Contact

The Regional Ombudsman visited eight (8) times during the last sixty (60) days. Care related complaints and concerns continue to be resolved by facility staff in a timely manner. Medical director, Dr. Michael Rice, reports that he has not been paid in six (6) months.

### Medical Records

No concerns are noted during this reporting period.

### Supply and Services

Care supplies are monitored and are adequate. However, staff reports difficulty obtaining funds from the corporate headquarters to purchase needed supplies for their plan of correction to DADS Regulatory Services and to post advertisements for vacant CNA positions.

### Pending Oversight Issues

Payment to the medical director and release of funds to pay for needed supplies and services are pending. A complaint about the delivery of therapy services is also pending, as the Regional Ombudsman investigates to determine if therapy is sufficiently delivered.

## ***Bethany Place***

### Facility

The facility census grew from thirty-four (34) to thirty-seven (37) residents with two (2) additional residents currently receiving hospital care. In the past sixty (60) days, the facility had no changes in administrative staff positions.

### Staffing Levels

Three (3) additional CNAs were hired, and there are no vacant positions. Direct care staffing continues to be relatively stable.

### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The occupancy rate is 45%, compared to the state average of 73%. This occupancy pattern is consistent over several years.

### Quality Reporting System (QRS) Rating

The QRS score is sixty-nine (69) out of a possible score of one hundred (100). The statewide average for facilities that accept Medicaid and Medicare is fifty-nine (59).

### Care Issues

DADS Regulatory reports the facility in substantial compliance. One complaint was investigated, but not substantiated, within the last sixty (60) days.

### Visitation and Resident Contact

The Regional Ombudsman visited the facility eight (8) times during the past sixty (6) day to monitor care. Currently there are no outstanding ombudsman related care issues. The facility employees are assisting the ombudsman to quickly resolve issues.

### Medical Records

No concerns are noted during this reporting period.

### Supply and Services

Regional Ombudsman staff continues to see no indication that vendor relationships are strained.

### Pending Oversight Issues

There are no pending issues.

#### *Denver Manor*

##### Facility

The current census fell slightly from forty-nine (49) to forty-six (46) residents. No changes in administrative staffing occurred over the last sixty (60) days.

##### Staffing Levels

The nursing staff dropped by two (2) LVNs, and increased by three (3) CNAs. A vacancy in the weekend Registered Nurse (RN) position remains.

##### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The occupancy rate is 56%, compared to the statewide average of 73 %.

##### Quality Reporting System (QRS) Rating

The QRS score dropped dramatically from thirty-eight (38) to six (6) out of a possible score of one hundred (100). Substantiated complaint investigations in November 2006, including an Immediate Jeopardy (IJ) account for this change in score. The statewide average for facilities that accept Medicaid and Medicare is fifty-nine (59).

##### Care Issues

Following the DADS Regulatory Services inspection on August 22, 2006, all deficiencies were eventually corrected by October 2006. The most recent regulatory complaint investigation, which resulted in an IJ declaration for patient care, was corrected by December 15, 2006.

### Visitation and Resident Contacts

Weekly visitation by the volunteer ombudsman continues. The Regional Ombudsman staff visited five (5) times in the last sixty (60) days. There are no pending ombudsman investigations. Two contacts were made with the medical director, Dr. Ozier, who reported no care concerns.

### Medical Records

No concerns are noted during this reporting period.

### Supply and Services

One (1) employee reported that a paycheck bounced due to lack of funds transferred from the Lubbock office, and the paycheck was eventually cashed. The office of Dr. Mike Ozier, medical director for Denver Manor, reported he was owed two (2) months pay for services as medical director, but the pay was recently received.

### Pending Oversight Issues

Denver Manor continues to be considered a fragile operating facility that warrants frequent and consistent oversight by both the Ombudsman program and the Regulatory Services Section of DADS. Weekly visits by the ombudsman program will continue until operations stabilize. There are no specific oversight issues that are pending.

## ***Pioneer Rehabilitation and Care Center***

### Facility

The current census remains at seventy-five (75) residents. Administrative staff has turned over 100%, including a new Administrator and Director of Nursing, both hired in December 2006. New Assistant Directors of Nursing (2), a Medicare claims staff,

Business Manager, Social Worker and Activity Assistant were hired in January 2007. The Social Worker is a former Administrator of the building and is only temporary. Patient care has no changes in quality since the staff turnover occurred.

#### Staffing Levels

One (1) CNA was hired and one (1) LVN was hired to work as needed.

#### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The occupancy rate is 63 %, compared to the statewide average of 73%.

#### Quality Reporting System (QRS) Rating

The QRS score for this facility remains fifty-six (56), compared to the statewide average of fifty-nine (59).

#### Care Issues

DADS Regulatory Services investigated two (2) complaints and three (3) incidents on December 20, 2006, but did not substantiate the complaints nor cite the facility for any failures. There are no pending regulatory issues.

#### Visitation and Resident Contact

Regional Ombudsman staff visited this facility six (6) times over the last sixty (60) days, including a visit in conjunction with the State Ombudsman. During those visits, the Ombudsman investigated and resolved complaints concerning food quality and time of food delivery, eating assistance not provided as needed, call lights placed out of reach of the resident and not promptly answered, hot water shortage, and drinking water not readily provided. Reports of bounced paychecks were received, but were not verified by the employees who were impacted; therefore, the claim was not substantiated. The



facility administration denies any problems with cashing checks. The medical director has not been in the building during ombudsman visits, and has not returned phone calls placed by the ombudsman.

#### Medical Records

No concerns are noted during this reporting period.

#### Supply and Services

Currently the facility is replacing window heating and cooling units in residents' rooms. Eleven units have been replaced. A room in the building was converted to a resident area with television, couch and chairs. Also, a massage therapist is now contracted to provide services in the facility.

#### Pending Oversight Issues

Hot water is not readily available to residents in their room sink. The problem has not been corrected.

### **Cedar Falls**

#### Facility

The current census remains at thirty-three (33) residents. There were no changes in administrative staffing.

#### Staffing Levels

One additional CNA was hired in the last sixty (60) days. The facility does not have a permanent Director of Nurses (DON) hired, and one (1) LVN vacancy remains.

### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The occupancy rate is 53 %, which indicates no significant change in occupancy. The statewide average occupancy is 73%.

### Quality Reporting System (QRS) Rating

The QRS score for this facility is nineteen (19) out of a possible score of one hundred (100). The statewide average for facilities that accept Medicaid and Medicare is fifty-nine (59).

### Care Issues

DADS Regulatory citations from a complaint investigation on October 18, 2006 have been cleared. The IJ, which also involved the sister facility Denver Manor, was removed on November 20, 2006, after Conifer Care's corporate office made payment for past vendor charges and established a payment procedure to assure future service in this area.

### Visitation and Resident Contact

The volunteer made weekly visits and the Regional Ombudsman staff visited four (4) times in the last sixty (60) days. The Regional Ombudsman program responded to routine individual complaints and assisted in resolving them. There are no pending ombudsman investigations. Contact was made with the medical director, Dr. Parkey, who reported no concerns.

### Medical Records

No concerns are noted during this reporting period.

### Supply and Services

No concerns are noted during this reporting period.

### Pending Oversight Issues

Two employees were unable to cash paychecks on January 5, 2007. Their paychecks have since been cashed; however, the issue requires continued monitoring.

### Theron Grainger

#### Facility

The current census remains at forty-eight (48) residents. A new Administrator was hired in January 2007. The DON is temporary but indicates plans to stay until a permanent DON is hired. The acting DON is currently interviewing for an additional vacancy for Assistant Director of Nurses (ADON).

#### Staffing Levels

Two (2) LVNs are no longer employed since the previous report was filed. All other staffing remains the same.

#### Funding and Occupancy

Medicaid and Medicare continue to be the primary source of funding. The occupancy rate remains at 71 %, compared to the statewide average of 73 %.

#### Quality Reporting System (QRS) Rating

The QRS score for this facility remains seventy-five (75) out of a possible one hundred (100). The statewide average for facilities that accept Medicaid and Medicare is fifty-nine (59).

#### Care Issues

The Regulatory Services Section of DADS reports no federal or state standards violations over the last sixty (60) days. According to the Regulatory Services Section, there are no outstanding or pending regulatory care issues.

Visitation and Resident Contacts

This facility was visited sixteen (16) times over the last sixty (60) days by the Regional Ombudsman staff. During this report period, a sewage problem emerged just outside the facility walls where raw sewage dumped directly onto the facility's property. With Regional Ombudsman action, the problem was corrected within one (1) day. Contact was made with the medical director by telephone. Dr. Mitchel reports that he does not feel care is compromised by the bankruptcy filing.

Medical Records

No concerns are noted during this reporting period.


Supply and Services

There are no identified problems with vendor payments or payroll checks during this reporting period.

Pending Oversight Issues

The medical director, Dr. Roderick Mitchel, reports that he has not been paid for seven (7) months for a total amount owed of \$4,800.00. The issue of payment to the medical director is pending.

Dated: January 29, 2007

  
Patty DuGayet, LMSW  
Patient Care Ombudsman  
Conifer Care, Inc.